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MAILED
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OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Cornelius Peter
Application No. 09/836,763
Filed: April 17, 2001
For: BELT RETRACTOR

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on February 13, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a Notice of Allowance and Issue Fee Due and a Notice of Allowability were mailed to the applicant on August 27, 2002. Since no Issue Fee in response to the August 27, 2002 Office communication was filed, the application was held abandoned.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of November 27, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received,"

1156 O.G.53 (November 16, 1993). The petition filed March 11, 2003 failed to comply with requirement (3) indicated above.

The renewed petition filed October 1, 2003 provides a docket record showing all actions due by the firm of Tarolli, Sundheim, Covell & Tummino at and around the due date of November 27, 2002 and indicates no actions due with regards to the instant application (attorney docket no. TRW(AEC) 5797). Since requirements (1)-(3) above have now been met, the petition to withdraw abandonment is granted.

The abandonment will be withdrawn and the file returned to pending status.



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KJD/mjz: 2/19/04